

APPEAL NO. 030812
FILED MAY 21, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 10, 2003. The hearing officer resolved the disputed issues by deciding that the compensable injury of _____, includes an injury to the neck, right shoulder, and right carpal tunnel syndrome but does not include right elbow epicondylitis and that the respondent (claimant) had disability on December 25 and 26, 2001, March 6, 2002, and March 11, 2002, through the date of the CCH. The appellant (carrier) appealed, disputing the disability determination and the extent-of-injury determinations that were favorable to the claimant. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that she had disability. The claimant also had the burden of proof on the extent-of-injury issue. A finding of disability is based on the determination that the inability to earn the preinjury wage was a result of the compensable injury. Section 401.011(16). In this regard, we have noted that termination for cause does not necessarily preclude disability, but may be considered by the hearing officer in determining why a claimant is unable to earn the preinjury wage. Appeal No. 91027, decided October 24, 1991. Thus, disability can continue after termination if a cause of the inability to earn the preinjury wage after termination was the compensable injury. Texas Workers' Compensation Commission Appeal No. 93850, decided November 8, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTY.
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge